

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to hazardous liquid pipelines and underground storage

The Utilities Board hereby amends Chapter 13, “Hazardous Liquid Pipelines and Underground Storage,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 479B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 479B.

Purpose and Summary

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The purpose of the comprehensive review is to identify and update or eliminate rules that are outdated, redundant, or inconsistent with statutes and other administrative rules. This rule making reorganizes the chapter, retains necessary provisions, introduces new provisions to address issues that have arisen in various dockets, and aligns the chapter with other chapters of the Board’s rules.

On August 12, 2021, the Board issued an order adopting new rules. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2020-0013.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 27, 2021, as **ARC 5403C**.

An oral presentation was held April 15, 2021, at 1:30 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The Board received comments at the oral presentation from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Farm Bureau Federation (Farm Bureau); the American Petroleum Institute and Association of Oil Pipelines (Associations); and the Sierra Club Iowa Chapter (Sierra Club) relating to the scope of the rules as well as other technical changes throughout the rules.

On February 16, 2021, OCA, Farm Bureau, and Associations filed their initial comments on the Notice. On February 17, 2021, Sierra Club filed its initial comments on the Notice. On May 26, 2021, the Board issued an order requesting stakeholder comments on a draft Adopted and Filed rule making. OCA, Farm Bureau, and Sierra Club filed comments based on the Board’s order requesting stakeholder comments on its proposed draft Adopted and Filed rule making, which addressed the last remaining issues stakeholders had regarding the rule.

The changes to the chapter are based upon comments made at the oral presentation, as well as the written comments submitted by interested parties.

Adoption of Rule Making

This rule making was adopted by the Board on August 12, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

No waiver provision is included in this amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 13, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 13.1(1) as follows:

13.1(1) ~~*Authority*~~ *Purpose and authority.* The purpose of this chapter is to implement the requirements of Iowa Code chapter 479B to establish procedures and filing requirements for a permit to construct, maintain, and operate an interstate hazardous liquid pipeline, for an amendment to an existing permit, and for renewal of an existing permit. This chapter also implements the requirements of Iowa Code chapter 479B for permits for underground storage of hazardous liquids. The standards rules in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are prescribed adopted by the Iowa utilities board pursuant to Iowa Code section 479B.1 chapter 479B.

ITEM 2. Rescind subrule 13.1(2) and adopt the following **new** subrule in lieu thereof:

13.1(2) *When a permit is required.* A hazardous liquid pipeline permit shall be required for any hazardous liquid pipeline to be constructed in Iowa, regardless of length or operating pressure of the pipeline.

ITEM 3. Amend subrule 13.1(3) as follows:

13.1(3) *Definitions.* Words and terms not otherwise defined in this chapter shall be understood to have their usual meaning. For the administration and interpretation of this chapter, the following words and terms, ~~when used in these rules,~~ shall have the following meanings indicated below:

"Affected person" means any person with a legal right or interest in the property, including but not limited to a landowner, a contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

"Amendment of permit" means changes to the pipeline permit or pipeline that require the filing of a petition to amend an existing pipeline permit as described in rule 199—13.9(479B).

"Approximate right angle" means within 5 degrees of a ~~90-degree~~ 90-degree angle.

"Board" means the utilities board within the utilities division of the department of commerce.

"CFR" means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of October 13, 2021, unless a separate effective date is identified in a specific rule.

"County inspector" means a professional engineer licensed under Iowa Code chapter 542B, familiar with agricultural and environmental inspection requirements, who has been employed by a county board of supervisors to do an on-site inspection of a proposed pipeline for compliance with 199—Chapter 9 and Iowa Code chapter 479B.

“*Hazardous liquid*” means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

“*Multiple line crossing*” means a point at which a proposed pipeline will either cross over or under an existing pipeline.

“*Negotiating*” means contact between a pipeline company and a person with authority to negotiate an easement or other interest in land that involves the location, damages, compensation, or other matter that is restricted by Iowa Code section 479B.4(6). Contact for purposes of obtaining addresses and other contact information from a landowner or tenant is not considered negotiation.

“*Permit*” means a new, amended, or ~~extended~~ renewal permit issued ~~after appropriate application to and determination by the board.~~

“*Person*” means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

“*Pipeline*” means any pipe or pipeline and necessary appurtenances used for the transportation or transmission of any hazardous liquid.

“*Pipeline company*” means any person, ~~firm, copartnership, association, corporation, or syndicate~~ engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.

“*Renewal permit*” means ~~the extension and reissuance of a permit after appropriate application to and determination by the board.~~

“*Underground storage*” means storage of hazardous liquid in a subsurface stratum or formation of the earth.

ITEM 4. Rescind subrule **13.1(4)**.

ITEM 5. Rescind rule 199—13.2(479B) and adopt the following new rule in lieu thereof:

199—13.2(479B) Informational meetings. Informational meetings shall be held for any proposed pipeline project five miles or more in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure in excess of 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or property rights would be affected.

13.2(1) Time frame for holding meeting. Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit.

13.2(2) Facilities. A pipeline company shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with any applicable requirements of the Americans with Disabilities Act Standards for Accessible Design, including both Title II regulations at 28 CFR part 36, subpart D, and the 2004 Americans with Disabilities Act Accessibility Guidelines at 36 CFR part 1191, appendices B and D (as amended through October 13, 2021), where such a building or facility is reasonably available.

13.2(3) Location. The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a permit or who have an interest in the proposed pipeline.

13.2(4) Board approval. A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting and shall include a proposed date and time for the informational meeting, an alternate time and date, and a description of the proposed project and map of the route. The pipeline company shall be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required. Once a date and time for the informational meeting have been approved, the pipeline company shall file the location of the informational meeting and a copy of the pipeline company’s presentation with the board. The pipeline company shall file a copy of its presentation with the board 14 days prior to the date the informational meeting is to be held.

13.2(5) Notices. Announcement by mailed and published notice of each informational meeting shall be given to persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and those persons in possession of or residing on the property in the corridor in which the pipeline company intends to seek easements.

- a.* The notice shall include the following:
- (1) The name of the pipeline company;
 - (2) The pipeline company's principal place of business;
 - (3) The general description and purpose of the proposed project;
 - (4) The general nature of the right-of-way desired;
 - (5) The possibility that the right-of-way may be acquired by condemnation if approved by the board;
 - (6) A map showing the route of the proposed project;
 - (7) A description of the process used by the board in making a decision on whether to approve a permit, including the right to take property by eminent domain;
 - (8) A statement that an affected landowner and any other affected person with a legal interest in the property, or residing on the property, has the right to be present at the informational meeting and to file objections with the board;
 - (9) The following statement: "Persons with disabilities requiring assistive services or devices to observe or participate should contact the board at (515) 725-7300 in advance of the scheduled date to request accommodations";
 - (10) Designation of the date, time, and place of the meeting; and
 - (11) A copy of the statement of damage claims as required by paragraph 13.3(3) "b."

b. The pipeline company shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and persons in possession of or residing on the property, whose addresses are known. The certified meeting notice shall be deposited in the United States mail not less than 30 days prior to the date of the meeting.

c. The pipeline company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in each county where the pipeline is proposed to be located at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected persons listed on the tax assessment rolls as responsible for paying the real estate taxes imposed on the property and persons in possession of or residing on the property whose addresses are not known, provided a good faith effort to obtain the address can be demonstrated by the pipeline company. The map used in the published notice shall clearly delineate the pipeline route.

d. The pipeline company shall file prior to the informational meeting an affidavit that describes the good faith effort the pipeline company undertook to locate the addresses of all affected persons. The affidavit shall be signed by a corporate officer or an attorney representing the pipeline company.

13.2(6) Personnel. The pipeline company shall provide qualified personnel to present the following information at the informational meeting:

- a.* Service requirements and planning which have resulted in the proposed project.
- b.* When the pipeline will be constructed.
- c.* In general terms, the elements involved in pipeline construction.
- d.* In general terms, the rights which the pipeline company will seek to acquire through easements.
- e.* Procedures to be followed in contacting the affected persons for specific negotiations in acquiring voluntary easements.
- f.* Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.
- g.* Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees, and time of payment.
- h.* Other factors or damages not included in the easement for which compensation is made, including features of interest to affected persons but not limited to computation of amounts and manner of payment.

13.2(7) Notice to county board of supervisors. The pipeline company shall send notice of the request for an informational meeting to the county board of supervisors in each county where the proposed pipeline is to be located. The pipeline company shall request from the board of supervisors the name of the county inspector, a professional engineer who shall conduct the on-site inspection required by Iowa Code section 479B.20(2). The pipeline company shall provide the name and contact information of the county inspector to the board, landowners, and other affected persons at the meeting, if known.

ITEM 6. Rescind rule 199—13.3(479B) and adopt the following new rule in lieu thereof:

199—13.3(479B) Petition for permit.

13.3(1) A petition for a permit shall be filed with the board upon the form prescribed and shall include all required exhibits. The petition shall be considered filed with the board on the date accepted by the board's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company. Required exhibits shall be in the following form:

a. Exhibit A. A legal description showing, at minimum:

- (1) The beginning and ending points of the proposed pipeline.
- (2) The general direction of the proposed route through each quarter section of land to be crossed, including township and range.
- (3) Whether the proposed pipeline will be located on private or public property, public highway, or railroad right-of-way.
- (4) Other pertinent information.
- (5) When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.

b. Exhibit B. Maps showing the proposed routing of the pipeline. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile, and shall be legible when printed on paper no larger than 11 by 17 inches. Maps based on satellite imagery are preferred. An additional map of the entire route, if the route is located in more than one county or there is more than one map for a county, shall be filed in this exhibit on paper no larger than 11 by 17 inches without regard to scale. The pipeline company shall also provide the board with a KMZ file showing the proposed route of the pipeline. Data files necessary to provide mapping of the route through the use of a geographic information system application shall be provided upon the request of the board. The following minimum information shall be provided on the maps:

- (1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side the pipeline is on. Multiple pipelines on the same right-of-way shall be indicated, and the distance between paralleling pipelines shall be shown.
- (2) The name of the county, county lines, section lines, section numbers, township numbers, and range numbers.
- (3) The location and identity of adjacent or crossed public roads, railroads, named streams or bodies of water, and other pertinent natural or man-made features influencing the route.
- (4) The name and corporate limits of cities and the name and boundaries of any public lands or parks.
- (5) Other pipelines and the identity of the owner.
- (6) Any buildings or places of public assembly within six tenths of a mile of the pipeline.

c. Exhibit C. A showing of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline; its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any; and such other information as may be deemed pertinent on forms prescribed by the board, which are located on the board's website. In addition, the maximum and normal operating pressure and maximum capacity of the proposed pipeline shall be provided.

d. Exhibit D. Satisfactory proof of solvency and financial ability to pay damages in the sum of \$250,000 or more; or surety bond satisfactory to the board in the penal sum of \$250,000 with surety approved by the board, conditioned that the pipeline company will pay any and all damages legally

recovered against the pipeline company growing out of the construction and operation of its pipeline or hazardous liquid storage facilities in the state of Iowa; security satisfactory to the board as a guarantee for the payment of damages in the sum of \$250,000; or satisfactory proofs that the company has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. The board may require additional surety or insurance policies to ensure the payment of damages resulting from the construction and operation of a hazardous liquid pipeline in a county.

e. Exhibit E.

(1) Consent or documentation of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when consent is obtained prior to filing of the petition, shall be filed with the petition.

(2) If any consent is not obtained at the time the petition is filed, the pipeline company shall file a statement that it will obtain all necessary consents or file other documentation of the right to commence construction prior to commencement of construction of the pipeline. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

(3) Whether there are permits that will be required from other state agencies for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained shall be included.

(4) Whether there are permits from federal agencies that will be required for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained shall be included.

f. Exhibit F. This exhibit shall contain the following information:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics:

1. The nature of the lands, waters, and public or private facilities to be crossed;
2. The possible use of alternative routes;
3. The relationship of the proposed pipeline to present and future land use and zoning ordinances;

and

4. The inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

g. Exhibit G. If informational meetings were required, an affidavit that the meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter, the corridor map, and the published notice(s) of the informational meeting shall be attached to the affidavit.

h. Exhibit H. This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, the exhibit must be in final form before a hearing is scheduled. The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and the following information for each property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of all affected persons for the property over which eminent domain is requested based upon a good faith effort to identify all affected persons.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the pipeline to the rights being sought.

(6) An overview map showing the location of the property over which eminent domain is requested, with the property identified as required by 199—Chapter 9.

(7) An updated KMZ file required by paragraph 13.3(1) “b” to show the locations of the property over which the pipeline company is seeking eminent domain.

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided for in rule 199—9.2(479,479B). The name and contact information of each county inspector designated by county boards of supervisors pursuant to Iowa Code section 479B.20(2) shall be included in the land restoration plan, when known.

j. Underground storage. If permission is sought to construct, maintain, and operate facilities for underground storage of hazardous liquid, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams, and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

k. Exhibit K. The pipeline company shall file additional information as follows:

(1) An affidavit describing the good faith effort the company has undertaken to identify all affected persons in the property for all parcels over which the pipeline is proposed to be located before easements were signed or eminent domain requested. The affidavit shall be signed by an attorney representing the pipeline company.

(2) Whether any private easements will be required for the proposed pipeline and, if a private easement will be required, when the easement negotiations will be completed and whether all affected persons associated with the property have been notified.

(3) Whether there are permits that will be required from other state agencies for the construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

(4) Whether there are permits from federal agencies that will be required for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

(5) Whether there are any agreements or additional facilities that need to be constructed to transport or receive hazardous liquids.

(6) Projected date when construction of the pipeline will begin.

l. Exhibit L. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

13.3(2) Construction on an existing easement.

a. Petitions proposing new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction and, if so, shall include the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

b. A petition for permit proposing a new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline shall not be acted upon by the board if a damage claim from the installation of the previous pipeline has not been resolved by negotiation, arbitration, or court action. The board may take action on the petition if the damage claim is under litigation or arbitration.

13.3(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction shall not be acted upon by the board if the pipeline company does not file with the board a written statement in compliance with Iowa Code chapter 479B as to how damages resulting from the construction of the pipeline shall be determined and paid.

b. The statement shall contain the following information: the type of damages which will be compensated, how the amount of damages will be determined, the procedures by which disputes may be resolved, the manner of payment, and the procedures that the affected person is required to follow to obtain a determination of damages by a county compensation commission.

c. The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

d. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479B.4. If no informational meeting is required, a copy shall be provided to each affected person prior to entering into negotiations for payment of damages.

e. Nothing in this rule shall prevent a person from negotiating with the pipeline company for terms which are different, more specific, or in addition to the statement filed with the board.

13.3(4) Negotiation of easements. The pipeline company is not prohibited from responding to inquiries concerning existing easements or from requesting and collecting tenant and affected person information, provided that the pipeline company is not “negotiating” as defined at subrule 13.1(3).

ITEM 7. Amend rule 199—13.4(479B) as follows:

199—13.4(479B) Notice of hearing.

~~13.4(1)~~ When a proper petition for permit is received by filed with the board, ~~it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 13.8(479B). Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of publication shall be filed prior to or at the hearing the petition shall be reviewed by board staff for compliance with applicable laws. Once board staff has completed the review and filed a report regarding the proposed pipeline and petition, the petition shall be set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—13.8(479B) which do not require a hearing.~~

~~13.4(2)~~ The pipeline company shall be furnished copies of the official notice of hearing, which the pipeline company shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 and no more than 30 days prior to the date of the hearing. Proof of publication shall be filed prior to the hearing.

~~13.4(3)~~ The published notice shall include a map showing either the pipeline route or the area affected by underground gas hazardous liquid storage, or a telephone number and an address through which interested persons ~~can~~ may obtain a copy of a map from ~~petitioner~~ the pipeline company at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

~~13.4(2)~~ **13.4(4)** If a petition for permit seeks the right of eminent domain, ~~petitioner~~ the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing ~~to~~ on the owners and parties in possession of lands ~~landowners and any affected person with an interest in the property~~ over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to ~~their~~ the person's last-known address₂, and this notice shall be mailed ~~not~~ no later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the ~~petitioner~~ pipeline company shall file with the board a certificate of service showing all persons and addresses to which notice was sent by certified mail, ~~and~~ the date of the mailing, and an affidavit that all affected persons were served.

~~13.4(3)~~ **13.4(5)** If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained at the time the petition is filed, a copy of the notice of hearing shall be served upon ~~the owners and parties in possession of those lands~~ any affected person with interests in the property. Service shall be by ordinary mail, addressed to the last-known address, ~~and~~ mailed not ~~no~~ later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all ~~parties~~ persons to which it ~~whom the notice was mailed, and~~ the date of mailing, and an affidavit that all affected persons were served, shall be filed with the board not less than five days prior to the hearing.

ITEM 8. Amend rule 199—13.5(479B) as follows:

199—13.5(479B) Objections. ~~A Any person, including a governmental entity, whose rights or interests may be affected by the object of a petition a proposed pipeline or underground storage facility may file a written objection with the board. The written objection~~ Written objections shall be filed with the secretary of the board not less than five days prior to date of hearing. The board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event petitioner the pipeline company shall be granted a reasonable time to meet objections respond to a late-filed objection.

ITEM 9. Amend rule 199—13.6(479B) as follows:

199—13.6(479B) Hearing. ~~Hearing shall be~~ A petition for a pipeline permit, or amendment to a pipeline permit, shall be scheduled for hearing not less than 10 or nor more than 30 days from the date of last publication of the notice of hearing.

~~Petitioner shall be represented by one or more duly authorized representatives or counsel or both. The board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of the board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of the board or at any other place within the state of Iowa as the board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.~~

13.6(1) Representation of a pipeline company at a pipeline permit hearing shall comply with the requirements of 199—subrule 7.4(8).

13.6(2) The board or presiding officer may schedule a prehearing conference to consider a procedural schedule for the petition and a hearing date.

13.6(3) One or more petitions may be consolidated for hearing.

13.6(4) Hearings shall be scheduled and held in the office of the board or at any other place within the state of Iowa as the board may designate pursuant to Iowa Code section 479B.6. Requests for conducting a hearing or taking testimony by telephone or electronic means may be approved by the board or presiding officer.

13.6(5) The hearing requirements in this rule also apply to petitions for hazardous liquid underground storage permits and amendments to hazardous liquid underground storage permits.

ITEM 10. Amend rule 199—13.7(479B) as follows:

199—13.7(479B) Pipeline permit. ~~If after hearing and appropriate findings of fact it is determined a permit should be granted, a permit shall be issued. Otherwise, the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.~~

~~A permit shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years.~~

13.7(1) A pipeline permit shall be issued once an order granting the permit is final and the compliance requirements have been met. A pipeline company may request board approval to delay obtaining consent to cross railroad right-of-way until after the pipeline permit is issued.

13.7(2) The issuance of the permit authorizes construction on the route or location as approved by the board, subject to deviation within the permanent route easement right-of-way. If a deviation outside the permanent route easement right-of-way becomes necessary, construction of the line in that location shall

be suspended and the pipeline company shall follow the procedures for filing a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, E and F, reflecting the proposed deviation. In case of any deviation from the approved permanent route easement, the pipeline company shall secure the necessary easements before construction may commence on the altered route. The right of eminent domain shall not be used to acquire any such easement except as specifically approved by the board, and a hearing will not be required unless the board determines a hearing is necessary to complete a review of the petition for amendment.

13.7(3) If the construction of facilities authorized by a permit is not commenced within two years of the date the permit is granted, or within two years after final disposition of judicial review of a permit or of condemnation proceedings, the permit shall be forfeited, unless the board grants an extension of the permit filed prior to the expiration of the two-year period.

13.7(4) Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline, in compliance with 199—Chapter 9 and revised Exhibits A, B, and C, shall be filed with the board.

13.7(5) The board shall set the term of the permit. The term of the permit may be less than, but shall not exceed, 25 years from the date of issuance.

ITEM 11. Amend rule 199—13.8(479B) as follows:

~~**199—13.8(479B) Renewal permits.** A petition for renewal of permit may be filed at any time subsequent to issuance of a permit and prior to expiration. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs. If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by subrule 13.4(1). Renewal permits shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.~~

13.8(1) A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and shall be filed at least one year prior to expiration of the permit. This requirement is not applicable to renewal of permits that expire within one year of October 13, 2021. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as part of the form, and the form is available on the board’s website. The petition shall include the name of the pipeline company requesting renewal of the permit, the pipeline company’s principal office and place of business, a description of any amendment or reportable change since the permit or previous renewal permit was issued, and the same exhibits as required for a new permit. The petition shall be considered filed with the board on the date accepted into the board’s electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company.

13.8(2) The procedure for a petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs.

13.8(3) If there are unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the board shall set the matter for hearing. If a hearing is not required, and the petition satisfies the requirements of this rule, a renewal permit will be issued upon the filing of the proof of publication as required by rule 199—13.4(479B).

13.8(4) The board shall set the term of a renewal permit. The term may be less than, but shall not exceed, 25 years from the date of issuance. The same procedure shall be followed in subsequent renewals.

This rule is intended to implement Iowa Code sections 476.2 and 479B.14.

ITEM 12. Amend rule 199—13.9(479B) as follows:

199—13.9(479B) Amendment of permits.

13.9(1) An amendment of a pipeline permit by the board is required in any of the following circumstances:

a. Construction of a an additional pipeline paralleling all or part of an existing line pipeline of petitioner; the pipeline company.

b. Extension of an existing pipeline of ~~petitioner by more than 660 feet (one-eighth mile);~~ the pipeline company outside of the permitted permanent route easement.

c. Relocation or replacement of an existing pipeline of ~~petitioner~~ the pipeline company which:

(1) Relocates the pipeline ~~more than 660 feet (one-eighth mile) from the route~~ outside of the permitted permanent route easement approved by the board; or

(2) Involves relocation or replacement requiring new or additional interests in property ~~for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule 199—13.3(479B) shall be held for these relocations. If the relocation or replacement is for five miles or more of pipe to be operated in excess of 150 pounds per square inch gauge, an informational meeting, as provided in rule 199—13.2(479B), shall be held.~~

d. Contiguous extension of an underground storage area of ~~petitioner; or~~ the pipeline company.

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit or previous renewal of the permit.

13.9(2) Petition for amendment.

a. The petition for amendment shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities, or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

b. The applicable procedures for petition for permit, including hearing, shall be followed. Upon appropriate determination by the board, an amendment to a permit ~~will~~ shall be issued. The amendment shall be subject to the same conditions with respect to ~~completion~~ commencement of construction within two years and the filing of final routing maps as ~~attached to a permit~~ required for pipeline permits.

ITEM 13. Amend rule 199—13.10(479B) as follows:

199—13.10(479B) Fees and expenses. The ~~petitioner~~ pipeline company shall pay the actual unrecovered cost incurred by the board attributable to the informational meeting, processing, investigation, and hearing, inspection related to a petition requesting a pipeline permit ~~action, and any other activity of the board related to a pipeline permit, pursuant to 199—Chapter 17.~~

~~Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.~~

ITEM 14. Renumber rule ~~199—13.12(479B)~~ as **199—13.11(479B)**.

ITEM 15. Amend renumbered rule 199—13.11(479B) as follows:

199—13.11(479B) Land restoration. Pipelines shall be constructed in compliance with ~~199 IAC 199—Chapter 9,~~ “Restoration of Agricultural Lands During and After Pipeline Construction.”

ITEM 16. Renumber rule ~~199—13.14(479B)~~ as **199—13.12(479B)**.

ITEM 17. Amend renumbered rule 199—13.12(479B) as follows:

199—13.12(479B) Crossings of highways, railroads, and rivers.

13.12(1) Iowa Code chapter 479B gives the ~~Iowa utilities~~ board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction for crossings of highway or railroad right-of-way, or rivers or other bodies of water.

~~13.12(2)~~ Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval Approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. ~~It is recommended the appropriate~~ The pipeline company shall file with the petition information that shows the pipeline company contacted the other necessary authorities be contacted well in advance of construction filing the petition to determine what restrictions or conditions may be placed on the crossing, by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline. Approvals and any restrictions, conditions, or relocations of existing facilities are required to be filed with the board prior to the grant of the permit. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

~~13.12(2)~~ **13.12(3)** Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, shall not be constructed unless a showing of consent by the appropriate authority has been provided by the ~~petitioner~~ pipeline company as required in paragraph 13.2(1)“e.” 13.3(1)“e.”

ITEM 18. Renumber rules ~~199—13.18(479B)~~ and ~~199—13.19(479B)~~ as **199—13.13(479B)** and **199—13.14(479B)**.

ITEM 19. Amend renumbered rule 199—13.13(479B) as follows:

199—13.13(479B) Reportable changes to pipelines under permit.

13.13(1) ~~The board~~ A pipeline company shall receive file prior notice with the board of any of the following actions affecting a pipeline under permit:

a. Abandonment or removal from service. The pipeline company shall also notify the landowners of the abandonment or removal of the pipeline from service.

b. ~~Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline to within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for amendment of a permit. Pressure test or increase in maximum allowable operating pressure.~~

~~*c.* Change in product being transported.~~

~~*c.* Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.~~

~~*e.* Extensions of existing pipelines by 660 feet (one-eighth mile) or less.~~

13.13(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and facility descriptions, where appropriate, and the name and telephone number of a person to contact for additional information.

ITEM 20. Amend renumbered rule 199—13.14(479B) as follows:

199—13.14(479B) Sale or transfer of permit.

13.14(1) No permit shall be sold or transferred without ~~prior~~ written approval of the board. A petition for approval of the sale or transfer shall be jointly filed by the buyer, or transferee, and the seller, or transferor, and shall include assurances that the buyer, or transferee, is authorized to transact business in the state of Iowa; ~~that the buyer and~~ is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; ~~and, if~~ the sale, or transfer, is prior to completion of construction of the pipeline, that the buyer, or transferee, shall demonstrate it has the financial ability to pay, up to \$250,000 in for damages associated with construction or operation of the pipeline, up to \$250,000 or any other amount the board determined necessary when granting the permit.

~~**13.14(2)** No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.~~

~~13.14(3)~~ The board shall receive notice from the transferor of any other transfer of a pipeline permit after completion of construction.

13.14(2) For the purposes of this rule, reassignment of a pipeline permit as part of a name change or a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer and requires prior board approval.

ITEM 21. Adopt the following new rule 199—13.15(479B):

199—13.15(479B) Reports to federal agencies.

13.15(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 195, a pipeline company shall file a copy of the report with the board. The board shall also be advised of any telephonic incident report made by the pipeline company. The pipeline company shall notify the board, as soon as possible, of any incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, if email is not available, by calling the board duty officer at (515)745-2332.

13.15(2) Pipeline companies operating in other states shall provide to the board data for Iowa only.

ITEM 22. Adopt the following new rule 199—13.16(479B):

199—13.16(479B) Termination of petition for pipeline permit proceedings. If a pipeline company fails to correct an identified deficiency within six months after written notification by the board, or after such shorter period as the board may specify in the written notification, to cure an incomplete or deficient permit petition, or a pipeline company fails to publish the official notice within 90 days after the official notice is provided by the board, the board may dismiss the petition.

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